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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of the Local)
Competition Provisions in the)
Telecommunications Act of 1996)

CC Docket No. 96-98

**MOTION TO ACCEPT LATE-FILED COMMENTS
OF
GUAM TELEPHONE AUTHORITY**

Guam Telephone Authority ("GTA"), by its attorneys, hereby requests that the Commission accept the attached "Comments" of GTA in the above-captioned proceeding.

Production difficulties prevented GTA from making a timely filing on May 16, 1996. However, acceptance of these Comments, filed only one day late, will serve the public interest by allowing the Commission to consider the unique views of the local exchange carrier serving Guam. Moreover, this short delay will not disadvantage any to the parties seeking to reply to GTA's Comments.

Respectfully submitted,

GUAM TELEPHONE AUTHORITY

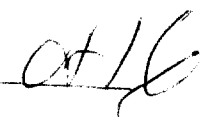


Veronica M. Ahern
Nixon Hargrave Devans & Doyle LLP
One Thomas Circle, N.W.
Suite 800
Washington, DC 20005

Its Attorney

May 17, 1996

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**SUMMARY
OF
GUAM TELEPHONE AUTHORITY**

GTA believes that the Commission should not adopt explicit nationwide rules to govern the implementation of Section 251. Explicit rules will not permit state commissions enough flexibility to accommodate diversity among states. In the case of Guam, GTA is able to point to several factors which are deviations from the nationwide norm and which will affect the implementation of local competition on Guam. GTA recommends that the Commission adopt flexible arrangements that allow states to consider local requirements.

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CC Docket No. 96-98

**COMMENTS
OF
GUAM TELEPHONE AUTHORITY**

Guam Telephone Authority ("GTA"), by its attorneys, hereby submits these comments in response to the above captioned Notice of Proposed Rulemaking released by the Federal Communications Commission ("FCC" or "Commission") on April 19, 1996.¹

I. BACKGROUND

A. The NPRM

The NPRM institutes one of a number of interrelated proceedings designed to implement the 1996 Act goals of increased competition, reduced regulation and the preservation of universal service. In particular, the NPRM is intended to implement the requirements of Section 251, which imposes obligations on Local Exchange Carriers ("LECs"), including incumbent LECs, to open markets to competition.²

¹ Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Notice of Proposed Rulemaking, CC Docket No. 96-98, FCC 96-182, April 19, 1996 ("NPRM").

² Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("1996 Act").

In addition, Section 252 sets forth the procedures that incumbent LECs and new entrants must follow to transform the requirements of Section 251 into contractual obligations. Section 252 provides for voluntary negotiations to consider terms and conditions under which LEC facilities and services can be made available to the new entrant. Agreements made as a result of voluntary negotiations need not satisfy the provisions of Section 251 of the Commissions rules, but must be non-discriminatory and consistent with the public interest, convenience and necessity.³

B. GTA

Guam Telephone Authority is the incumbent LEC providing local residential and business exchange services, including exchange access services, on Guam. GTA, a semi-autonomous agency of the Government of Guam, provides about 70,000 access lines and is a "rural telephone company" pursuant to Section 3(37) of the 1996 Act.⁴

Guam is a Territory of the United States located in the Western Pacific. It is the largest island in the Marianas, covering about 212 square miles. It is also a significant communications crossroads for the Pacific and is the social, political and economic hub of Micronesia. Guam has served as host to important U.S. military bases since after World War II.

³ Although voluntary negotiators are not obligated to follow the Commission's rules, the Commission clearly expects that "the requesting carriers will seek to negotiate terms and conditions that are, overall, at least as advantageous as those available pursuant to the Commission's rules." NPRM at n.34.

⁴ The Governor of Guam advocates the degovernmentalization of GTA and GTA has taken steps to begin that process.

II. COMMENT

A. The Commission Should Not Adopt Explicit National Rules

1. The NPRM

In the NPRM, the Commission focuses a great deal of attention on the proper scope of its regulations adopted to implement Sections 251 and 252. It appears to favor an approach leading toward the adoption of explicit nationwide rules. The Commission believes that nationwide rules would further a uniform, pro-competitive policy and would minimize variations among states. Such rules would expedite the transition to competition, particularly in states that do not have rules allowing local competition.⁵ Moreover, explicit nationwide rules can be expected to reduce the capital costs of, and attract investment in, new entrants, as well as avoid a patchwork of different regulations and the costs associated therewith.⁶ Further, concrete national standards would limit the effect of the incumbent's bargaining position on the outcome of the voluntary negotiations contemplated in Section 252 of the Act.⁷

On the other hand, the Commission specifically recognizes that explicit national rules:

might unduly constrain the ability of states to address
unique policy concerns that might exist within their
jurisdictions.⁸

The Commission asks whether there are substantial state specific variations in technological, geographic or demographic conditions in particular local markets that call for fundamentally different regulatory approaches.⁹

⁵ See NPRM, para. 28.

⁶ See NPRM, para. 30.

⁷ See NPRM, para. 31.

⁸ NPRM, para. 33.

⁹ See id.

2. GTA's View

GTA believes that the Commission should not adopt explicit national rules because those rules are not likely to provide enough flexibility for state commissions to accommodate diversity. GTA believes that there are substantial variations in conditions among the states, and that those variations should be accommodated.

To illustrate, GTA can point to several unique (or almost unique) factors that will affect the development of local competition on Guam. It is highly unlikely that explicit nationwide rules will take note of any of these factors, all of which are well known to the Guam Public Utilities Commission.

First, GTA has no direct access to the databases necessary to achieve number portability, as well as a number of other features. Because of its distance from the nearest Service Control Point, GTA finds database access or other similar services prohibitively expensive.¹⁰

Second, GTA has not yet implemented equal access in any of its exchanges, and does not have the ability to measure exchange access service.¹¹ This will affect GTA's ability to accurately price unbundled network elements.

Third, there is no intrastate toll service on Guam. This impacts the sources of GTA's revenues and its ability to compete effectively.

Fourth, GTA has not participated in Universal Service funding or in any averaging approach. Its customers do not enjoy Lifeline or Link-Up plans.

Fifth, there are no adjacent LECs except for military installations (if they qualify as LECs). Service to many customers is provided through Armed Forces facilities, not through the GTA network.

These factors are some of the variations on the national "norm" that affect Guam. GTA is sure that other jurisdictions can point to other variations. Explicit

¹⁰ In its comments in CC Docket 96-45, Federal-State Joint Board on Universal Service, GTA has asked for Universal Service support for database access. See GTA Comments, April 12, 1996, p. 7.

¹¹ The Commission is aware of this phenomenon and of GTA's efforts to regularize its practices.

nationwide rules that do not take the diversity of localities and companies into account, will cry out for waiver requests. Inflexible rules are not in the public interest and are not consistent with the Act's emphasis on the authority of local public utility commissions.

Some of these factors are temporary aberrations that will diminish as Guam is included within the nationwide dialing pattern and ratemaking approach. Indeed it is GTA's goal in addressing implementation of the 1996 Act to bring itself completely under the national mantle. However, until such time as this is achieved, variations from the norm will prevail. In that circumstance, the local regulator is better able to safeguard the public interest.

B. The Commission Should Adopt Rules That Allow States to Consider Unique Requirements

GTA believes that there is room for compromise between the Commission's apparent tendency toward nationwide explicit rules and a patchwork quilt of state rules that make nationwide service difficult, if not impossible.


First, the Commission could adopt policies, but not rules, and allow the states to develop the explicit requirements to conform with those policies. Second, the Commission could adopt rules that encompass a range of permissible options. Third, the Commission could allow state commissions to grant waivers of its nationwide explicit rules where local variations make such waivers necessary. In cases where a LEC serves only one state, as is the case with GTA, such an approach seems particularly appropriate.

III. CONCLUSION

GTA believes that it is important that the Commission recognize that all LECs are not alike nor are the circumstances of their provision of service. Rules that do not accommodate this diversity will not serve the purposes of the Act.

Respectfully submitted,

GUAM TELEPHONE AUTHORITY



Veronica M. Ahern
Nixon Hargrave Devans & Doyle LLP
One Thomas Circle, N.W.
Suite 800
Washington, DC 20005

Its Attorney

May 16, 1996

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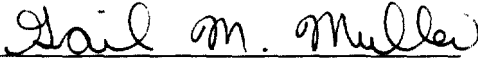
Chairman Reed E. Hundt*
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, DC 20554

Commissioner James H. Quello*
Federal Communications Commission
1919 M Street, N.W.
Room 802
Washington, DC 20554

Commissioner Susan Ness*
Federal Communications Commission
1919 M Street, N.W.
Room 832
Washington, DC 20554

Commissioner Rachelle B. Chong*
Federal Communications Commission
1919 M Street, N.W.
Room 844
Washington, DC 20554

International Transcription Service
1919 M Street, N.W.
Room 246
Washington, DC 20554


Gail M. Mullen*

*Hand Delivered